IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP(T) No. 6012 of 2008.

Decided on: 16.06.2010.

Chuni Lal.

...Petitioner.

-Versus-

Himachal Road Transport Corporation, Shimla and others.

...Respondents.

Coram:
The Hon'ble Mr. Justice Rajiv Sharma, Judge.

Whether approved for reporting?[1] *Yes.*

For the petitioner. : Mr. Jeevesh Sharma, Advocate.

For the respondents : Mr. Adarsh Sharma, Advocate.

Rajiv Sharma, Judge (Oral)**:**

Disciplinary proceedings were initiated against the petitioner. The inquiry officer was appointed. He furnished the report to the disciplinary authority. The disciplinary authority imposed the penalty of compulsory retirement from service upon the petitioner vide Annexure P-1, dated 24th December, 1997. He filed a detailed appeal before the Managing Director of the respondent-Corporation vide Annexure P-3, 23.01.1998. The same has been rejected by him vide Annexure P-2, dated 02.06.1998. The order passed by the appellate authority is neither a speaking order nor detailed. It is settled law by now that the order passed by the appellate authority must be speaking and reasoned and should reflect due application of mind.

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[1] *Whether the reporters of the local papers may be allowed to see the judgment? Yes.*

2. Their Lordships of the Hon'ble Supreme Court in **Roop Singh Negi** versus **Punjab National Bank and others** (2009) 2 Supreme Court Cases 570 have held as under:

> "Furthermore, the order of disciplinary authority as also the appellate authority are not supported by any reason. As the orders passed by them have severe civil consequences, appropriate reasons should have assigned. If the enquiry officer had relied upon the confession made by the appellant, there was no reason as to why the order of discharge passed by the criminal Court on the basis of selfsame evidence should not have been taken into consideration. The materials brought on record pointing out the guilt are required to be proved. A decision must be arrived at on some evidence, which is legally admissible. The provisions of the Evidence Act may not be applicable in a departmental proceeding but the principles of natural justice are. As the report of the enquiry officer was based on merely ipse dixit as also surmises and conjectures, the same could not have been sustained. The inference drawn by the enquiry officer apparently were not supported by any evidence. Suspicion as is well known, however high may be, can under no circumstances be held to be substitute for legal proof.

3. In **Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank** versus **Jagdish Sharan Varshney and others, (2009) 4 SCC 240**, their Lordships of the Hon'ble Supreme Court have held that the appellate authority must give reasons while affirming the order of lower authority. Their Lordships of the Hon'ble Supreme Court in **G. Vallikumari** versus **Andhra Education Society and others,** 2010 (2) SCC 497 have

held that the disciplinary authority must record reasons while passing the order.

4. Accordingly, the petition is allowed. Anneuxure P-2, dated 2.6.1998 is quashed and set aside. The appellate authority is directed to re-hear the appeal preferred by the petitioner vide Annexure P-3, 23.01.1998 and pass a speaking order after hearing the petitioner in person, within a period of ten weeks from the receipt of the certified copy of this judgment. No costs.

(Rajiv Sharma)
Judge

June 16, 2010.
(bhupender)